

# SB3313



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

SB3313

Introduced 2/19/2016, by Sen. John G. Mulroe

#### SYNOPSIS AS INTRODUCED:

625 ILCS 5/18c-7401

from Ch. 95 1/2, par. 18c-7401

Amends the Illinois Vehicle Code. Allows a rail carrier in Lake, DuPage, Kane, McHenry, Cook, or Will County to comply with railroad crossing brush clearing requirements by removing from its right of way at each railroad-highway grade crossing that has electrified flashing lights, bells, and gates any brush, shrubbery, and trees for a distance of not less than 15 feet on each side of the center line of each track and not less than 500 feet in either direction from the near edge of the existing roadway surface from each grade crossing. Effective immediately.

LRB099 19351 AXK 43743 b

A BILL FOR

1 AN ACT concerning transportation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Vehicle Code is amended by changing  
5 Section 18c-7401 as follows:

6 (625 ILCS 5/18c-7401) (from Ch. 95 1/2, par. 18c-7401)

7 Sec. 18c-7401. Safety Requirements for Track, Facilities,  
8 and Equipment.

9 (1) General Requirements. Each rail carrier shall,  
10 consistent with rules, orders, and regulations of the Federal  
11 Railroad Administration, construct, maintain, and operate all  
12 of its equipment, track, and other property in this State in  
13 such a manner as to pose no undue risk to its employees or the  
14 person or property of any member of the public.

15 (2) Adoption of Federal Standards. The track safety  
16 standards and accident/incident standards promulgated by the  
17 Federal Railroad Administration shall be safety standards of  
18 the Commission. The Commission may, in addition, adopt by  
19 reference in its regulations other federal railroad safety  
20 standards, whether contained in federal statutes or in  
21 regulations adopted pursuant to such statutes.

22 (3) Railroad Crossings. No public road, highway, or street  
23 shall hereafter be constructed across the track of any rail

1 carrier at grade, nor shall the track of any rail carrier be  
2 constructed across a public road, highway or street at grade,  
3 without having first secured the permission of the Commission;  
4 provided, that this Section shall not apply to the replacement  
5 of lawfully existing roads, highways and tracks. No public  
6 pedestrian bridge or subway shall be constructed across the  
7 track of any rail carrier without having first secured the  
8 permission of the Commission. The Commission shall have the  
9 right to refuse its permission or to grant it upon such terms  
10 and conditions as it may prescribe. The Commission shall have  
11 power to determine and prescribe the manner, including the  
12 particular point of crossing, and the terms of installation,  
13 operation, maintenance, use and protection of each such  
14 crossing.

15 The Commission shall also have power, after a hearing, to  
16 require major alteration of or to abolish any crossing,  
17 heretofore or hereafter established, when in its opinion, the  
18 public safety requires such alteration or abolition, and,  
19 except in cities, villages and incorporated towns of 1,000,000  
20 or more inhabitants, to vacate and close that part of the  
21 highway on such crossing altered or abolished and cause  
22 barricades to be erected across such highway in such manner as  
23 to prevent the use of such crossing as a highway, when, in the  
24 opinion of the Commission, the public convenience served by the  
25 crossing in question is not such as to justify the further  
26 retention thereof; or to require a separation of grades, at

1 railroad-highway grade crossings; or to require a separation of  
2 grades at any proposed crossing where a proposed public highway  
3 may cross the tracks of any rail carrier or carriers; and to  
4 prescribe, after a hearing of the parties, the terms upon which  
5 such separations shall be made and the proportion in which the  
6 expense of the alteration or abolition of such crossings or the  
7 separation of such grades, having regard to the benefits, if  
8 any, accruing to the rail carrier or any party in interest,  
9 shall be divided between the rail carrier or carriers affected,  
10 or between such carrier or carriers and the State, county,  
11 municipality or other public authority in interest. However, a  
12 public hearing by the Commission to abolish a crossing shall  
13 not be required when the public highway authority in interest  
14 vacates the highway. In such instance the rail carrier,  
15 following notification to the Commission and the highway  
16 authority, shall remove any grade crossing warning devices and  
17 the grade crossing surface.

18 The Commission shall also have power by its order to  
19 require the reconstruction, minor alteration, minor relocation  
20 or improvement of any crossing (including the necessary highway  
21 approaches thereto) of any railroad across any highway or  
22 public road, pedestrian bridge, or pedestrian subway, whether  
23 such crossing be at grade or by overhead structure or by  
24 subway, whenever the Commission finds after a hearing or  
25 without a hearing as otherwise provided in this paragraph that  
26 such reconstruction, alteration, relocation or improvement is

1 necessary to preserve or promote the safety or convenience of  
2 the public or of the employees or passengers of such rail  
3 carrier or carriers. By its original order or supplemental  
4 orders in such case, the Commission may direct such  
5 reconstruction, alteration, relocation, or improvement to be  
6 made in such manner and upon such terms and conditions as may  
7 be reasonable and necessary and may apportion the cost of such  
8 reconstruction, alteration, relocation or improvement and the  
9 subsequent maintenance thereof, having regard to the benefits,  
10 if any, accruing to the railroad or any party in interest,  
11 between the rail carrier or carriers and public utilities  
12 affected, or between such carrier or carriers and public  
13 utilities and the State, county, municipality or other public  
14 authority in interest. The cost to be so apportioned shall  
15 include the cost of changes or alterations in the equipment of  
16 public utilities affected as well as the cost of the  
17 relocation, diversion or establishment of any public highway,  
18 made necessary by such reconstruction, alteration, relocation  
19 or improvement of said crossing. A hearing shall not be  
20 required in those instances when the Commission enters an order  
21 confirming a written stipulation in which the Commission, the  
22 public highway authority or other public authority in interest,  
23 the rail carrier or carriers affected, and in instances  
24 involving the use of the Grade Crossing Protection Fund, the  
25 Illinois Department of Transportation, agree on the  
26 reconstruction, alteration, relocation, or improvement and the

1 subsequent maintenance thereof and the division of costs of  
2 such changes of any grade crossing (including the necessary  
3 highway approaches thereto) of any railroad across any highway,  
4 pedestrian bridge, or pedestrian subway.

5 Every rail carrier operating in the State of Illinois shall  
6 construct and maintain every highway crossing over its tracks  
7 within the State so that the roadway at the intersection shall  
8 be as flush with the rails as superelevated curves will allow,  
9 and, unless otherwise ordered by the Commission, shall  
10 construct and maintain the approaches thereto at a grade of not  
11 more than 5% within the right of way for a distance of not less  
12 the 6 feet on each side of the centerline of such tracks;  
13 provided, that the grades at the approaches may be maintained  
14 in excess of 5% only when authorized by the Commission.

15 Every rail carrier operating within this State shall remove  
16 from its right of way at all railroad-highway grade crossings  
17 within the State, such brush, shrubbery, and trees as is  
18 reasonably practical for a distance of not less than 500 feet  
19 in either direction from each grade crossing; except a rail  
20 carrier operating within Lake, DuPage, Kane, McHenry, Cook, or  
21 Will County may comply with this provision by removing any  
22 brush, shrubbery, and trees as is reasonably practical for a  
23 distance of not less than 15 feet on each side of the center  
24 line of each track and not less than 500 feet in either  
25 direction from the near edge of the existing roadway surface  
26 from each railroad-highway grade crossing that has electrified

1 flashing lights, bells, and gates. The Commission shall have  
2 power, upon its own motion, or upon complaint, and after having  
3 made proper investigation, to require the installation of  
4 adequate and appropriate luminous reflective warning signs,  
5 luminous flashing signals, crossing gates illuminated at  
6 night, or other protective devices in order to promote and  
7 safeguard the health and safety of the public. Luminous  
8 flashing signal or crossing gate devices installed at grade  
9 crossings, which have been approved by the Commission, shall be  
10 deemed adequate and appropriate. The Commission shall have  
11 authority to determine the number, type, and location of such  
12 signs, signals, gates, or other protective devices which,  
13 however, shall conform as near as may be with generally  
14 recognized national standards, and the Commission shall have  
15 authority to prescribe the division of the cost of the  
16 installation and subsequent maintenance of such signs,  
17 signals, gates, or other protective devices between the rail  
18 carrier or carriers, the public highway authority or other  
19 public authority in interest, and in instances involving the  
20 use of the Grade Crossing Protection Fund, the Illinois  
21 Department of Transportation. Except where train crews provide  
22 flagging of the crossing to road users, yield signs shall be  
23 installed at all highway intersections with every grade  
24 crossing in this State that is not equipped with automatic  
25 warning devices, such as luminous flashing signals or crossing  
26 gate devices. A stop sign may be used in lieu of the yield sign

1 when an engineering study conducted in cooperation with the  
2 highway authority and the Illinois Department of  
3 Transportation has determined that a stop sign is warranted. If  
4 the Commission has ordered the installation of luminous  
5 flashing signal or crossing gate devices at a grade crossing  
6 not equipped with active warning devices, the Commission shall  
7 order the installation of temporary stop signs at the highway  
8 intersection with the grade crossing unless an engineering  
9 study has determined that a stop sign is not appropriate. If a  
10 stop sign is not appropriate, the Commission may order the  
11 installation of other appropriate supplemental signing as  
12 determined by an engineering study. The temporary signs shall  
13 remain in place until the luminous flashing signal or crossing  
14 gate devices have been installed. The rail carrier is  
15 responsible for the installation and subsequent maintenance of  
16 any required signs. The permanent signs shall be in place by  
17 July 1, 2011.

18 No railroad may change or modify the warning device system  
19 at a railroad-highway grade crossing, including warning  
20 systems interconnected with highway traffic control signals,  
21 without having first received the approval of the Commission.  
22 The Commission shall have the further power, upon application,  
23 upon its own motion, or upon complaint and after having made  
24 proper investigation, to require the interconnection of grade  
25 crossing warning devices with traffic control signals at  
26 highway intersections located at or near railroad crossings

1 within the distances described by the State Manual on Uniform  
2 Traffic Control Devices adopted pursuant to Section 11-301 of  
3 this Code. In addition, State and local authorities may not  
4 install, remove, modernize, or otherwise modify traffic  
5 control signals at a highway intersection that is  
6 interconnected or proposed to be interconnected with grade  
7 crossing warning devices when the change affects the number,  
8 type, or location of traffic control devices on the track  
9 approach leg or legs of the intersection or the timing of the  
10 railroad preemption sequence of operation until the Commission  
11 has approved the installation, removal, modernization, or  
12 modification. Commission approval shall be limited to  
13 consideration of issues directly affecting the public safety at  
14 the railroad-highway grade crossing. The electrical circuit  
15 devices, alternate warning devices, and preemption sequences  
16 shall conform as nearly as possible, considering the particular  
17 characteristics of the crossing and intersection area, to the  
18 State manual adopted by the Illinois Department of  
19 Transportation pursuant to Section 11-301 of this Code and such  
20 federal standards as are made applicable by subsection (2) of  
21 this Section. In order to carry out this authority, the  
22 Commission shall have the authority to determine the number,  
23 type, and location of traffic control devices on the track  
24 approach leg or legs of the intersection and the timing of the  
25 railroad preemption sequence of operation. The Commission  
26 shall prescribe the division of costs for installation and

1 maintenance of all devices required by this paragraph between  
2 the railroad or railroads and the highway authority in interest  
3 and in instances involving the use of the Grade Crossing  
4 Protection Fund or a State highway, the Illinois Department of  
5 Transportation.

6 Any person who unlawfully or maliciously removes, throws  
7 down, damages or defaces any sign, signal, gate or other  
8 protective device, located at or near any public grade  
9 crossing, shall be guilty of a petty offense and fined not less  
10 than \$50 nor more than \$200 for each offense. In addition to  
11 fines levied under the provisions of this Section a person  
12 adjudged guilty hereunder may also be directed to make  
13 restitution for the costs of repair or replacement, or both,  
14 necessitated by his misconduct.

15 It is the public policy of the State of Illinois to enhance  
16 public safety by establishing safe grade crossings. In order to  
17 implement this policy, the Illinois Commerce Commission is  
18 directed to conduct public hearings and to adopt specific  
19 criteria by July 1, 1994, that shall be adhered to by the  
20 Illinois Commerce Commission in determining if a grade crossing  
21 should be opened or abolished. The following factors shall be  
22 considered by the Illinois Commerce Commission in developing  
23 the specific criteria for opening and abolishing grade  
24 crossings:

- 25 (a) timetable speed of passenger trains;  
26 (b) distance to an alternate crossing;

- 1 (c) accident history for the last 5 years;
- 2 (d) number of vehicular traffic and posted speed  
3 limits;
- 4 (e) number of freight trains and their timetable  
5 speeds;
- 6 (f) the type of warning device present at the grade  
7 crossing;
- 8 (g) alignments of the roadway and railroad, and the  
9 angle of intersection of those alignments;
- 10 (h) use of the grade crossing by trucks carrying  
11 hazardous materials, vehicles carrying passengers for  
12 hire, and school buses; and
- 13 (i) use of the grade crossing by emergency vehicles.

14 The Illinois Commerce Commission, upon petition to open or  
15 abolish a grade crossing, shall enter an order opening or  
16 abolishing the crossing if it meets the specific criteria  
17 adopted by the Commission.

18 Except as otherwise provided in this subsection (3), in no  
19 instance shall a grade crossing be permanently closed without  
20 public hearing first being held and notice of such hearing  
21 being published in an area newspaper of local general  
22 circulation.

23 (4) Freight Trains - Radio Communications. The Commission  
24 shall after hearing and order require that every main line  
25 railroad freight train operating on main tracks outside of yard  
26 limits within this State shall be equipped with a radio

1 communication system. The Commission after notice and hearing  
2 may grant exemptions from the requirements of this Section as  
3 to secondary and branch lines.

4 (5) Railroad Bridges and Trestles - Walkway and Handrail.  
5 In cases in which the Commission finds the same to be practical  
6 and necessary for safety of railroad employees, bridges and  
7 trestles, over and upon which railroad trains are operated,  
8 shall include as a part thereof, a safe and suitable walkway  
9 and handrail on one side only of such bridge or trestle, and  
10 such handrail shall be located at the outer edge of the walkway  
11 and shall provide a clearance of not less than 8 feet, 6  
12 inches, from the center line of the nearest track, measured at  
13 right angles thereto.

14 (6) Packages Containing Articles for First Aid to Injured  
15 on Trains.

16 (a) All rail carriers shall provide a first aid kit  
17 that contains, at a minimum, those articles prescribed by  
18 the Commission, on each train or engine, for first aid to  
19 persons who may be injured in the course of the operation  
20 of such trains.

21 (b) A vehicle, excluding a taxi cab used in an  
22 emergency situation, operated by a contract carrier  
23 transporting railroad employees in the course of their  
24 employment shall be equipped with a readily available first  
25 aid kit that contains, as a minimum, the same articles that  
26 are required on each train or engine.

1           (7) Abandoned Bridges, Crossings, and Other Rail Plant. The  
2 Commission shall have authority, after notice and hearing, to  
3 order:

4           (a) The removal of any abandoned railroad tracks from  
5 roads, streets or other thoroughfares in this State; and

6           (b) The removal of abandoned overhead railroad  
7 structures crossing highways, waterways, or railroads.

8           The Commission may equitably apportion the cost of such  
9 actions between the rail carrier or carriers, public utilities,  
10 and the State, county, municipality, township, road district,  
11 or other public authority in interest.

12           (8) Railroad-Highway Bridge Clearance. A vertical  
13 clearance of not less than 23 feet above the top of rail shall  
14 be provided for all new or reconstructed highway bridges  
15 constructed over a railroad track. The Commission may permit a  
16 lesser clearance if it determines that the 23 foot clearance  
17 standard cannot be justified based on engineering,  
18 operational, and economic conditions.

19           (Source: P.A. 96-470, eff. 8-14-09; 97-374, eff. 1-1-12.)

20           Section 99. Effective date. This Act takes effect upon  
21 becoming law.